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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:

SUSAN BELLERBY BK. No. 18-14339-amc

Debtor

WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2

Movant : 11 U.S.C. §362 and §1301

Chapter No. 13

V.

SUSAN BELLERBY

DONALD R BELLERBY (Non-Filing Co-Debtor)

Respondents

MOTION OF WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2 FOR RELIEF FROM AUTOMATIC STAY UNDER §362 AND §1301 CO-DEBTOR STAY PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by DEBTOR, SUSAN BELLERBY, and NON-FILING CO-DEBTOR, DONALD R BELLERBY.

- 1. Movant is WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2.
- 2. DEBTOR, SUSAN BELLERBY, and NON-FILING CO-DEBTOR, DONALD R BELLERBY, are the owners of the premises located at **914 STATE RD**, **CROYDON**, **PA 19021-6119**, hereinafter known as the mortgaged premises.
  - 3. Movant is the holder of a mortgage on the mortgaged premises.
- 4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
- 5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
  - 6. The foreclosure proceedings instituted were stayed by the filing of the instant

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- 7. As of January 9, 2019, Debtor has failed to tender post-petition mortgage payments for the months of September 2018 through January 2019. The monthly payment amount for the months of September 2018 through December 2018 is \$970.36 each, the monthly payment amount for the month of January 2019 is \$981.98, less suspense in the amount of \$666.35, for a total amount due of \$4,197.07. The next payment was due on or before February 1, 2019, in the amount of \$981.98. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.
- 8. Movant additionally seeks relief from the co-debtor stay under 1301 (c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the co-debtor stay.
- 9. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.
- 10. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.
- 11. Movant, it's successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay and Co-Debtor Stay.
- 12. OCWEN LOAN SERVICING, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2007-OPT2, ASSET-BACKED CERTIFICATES, SERIES 2007-OPT2 (the Noteholder) and is entitled to

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## WHEREFORE, Movant respectfully requests that this Court enter an Order;

- a. Modifying the Automatic Stay under Section 362 and Co-Debtor Stay under Section 1301 with respect to **914 STATE RD**, **CROYDON**, **PA 19021-6119** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and
- b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and
  - c. Granting relief from any co-debtor stay (if applicable); and
- d. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the Automatic

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Stay and Co-Debtor Stay; and

e. Granting any other relief that this Court deems equitable and just.

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